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| Date               | Client/Matter Number |
| September 28, 2006 | 213187-00002         |
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Total number of pages, including cover letter: pages  
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**Comments**

RE: Patent Application No.: 09/679,391

Filing Date: October 3, 2000

Inventor: Daniel Bates, et al.

Title: Method and Apparatus for Associating the Color of an Object with an Event

Confirmation No. 6681

Please file the attached:

Reply Brief Transmittal Cover Letter (2 p.)

Reply to Examiner's Answer (4 p.)

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**PATENT**  
**ATTORNEY DOCKET**  
**NO. 213187-00002****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Daniel Bates )  
Serial No.: 09/679,391 )  
Title: Method and Apparatus for Associating )  
the Color of an Object with an Event )  
Group Art Unit: 2628 )  
Examiner: Richer, Aaron M. )  
Customer No.: 27160 )  
Confirmation No. 6681 )

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**REPLY BRIEF TRANSMITTAL COVER LETTER**

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450


Sir:

Submitted herewith for the above-identified application are the following:

1. Reply to Examiner's Answer of August 21, 2006
2. The Commissioner is hereby authorized to charge any fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 50-1214. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-1214. This sheet is filed in triplicate.

Respectfully submitted,

KATTEN MUCHIN ROSENMAN LLP

  
John S. Paniaguas  
Registration No.: 31,051  
Attorney for Applicant

Date: Sept 28, 2006  
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PATENT

ATTORNEY DOCKET NO. 213187-00002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Daniel Bates.

Serial No.: 09/679,391

Filed: October 3, 2000

Title: Method and Apparatus for Associating the  
Color of an Object with an Event

Group Art Unit: 2628

Examiner: Richer, Aaron M.

Customer No.: 27160

Confirmation No.: 6681

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
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REPLY TO EXAMINER'S ANSWER

Sir:

Pursuant to 37 C.F.R. § 41.41, the Applicant hereby submits a reply to the Examiner's Answer within two months thereof. The Reply Brief does not include any new or non-admitted affidavit or other evidence. Accordingly, it is respectfully requested that the Reply Brief be entered.

It is respectfully submitted that the Examiner in his reply brief continues to apply references in a piecemeal basis using the claims as a blueprint in contravention of the MPEP and established case law of the Court of Appeals of the Federal Circuit. As set forth by the Court of Appeals for the Federal Circuit in Teleflex v. KSR International Co., 119 Fed. Appx. 282 (Fed. Cir. 2005) "...the Examiner must show reasons that the skilled artisan, confronted with the same

problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed." Knowledge alone is insufficient to satisfy the requirement that the Examiner must still provide a showing of a motivation to make the claimed combination ("...the test of whether it would have been obvious to select specific teachings must still be met by identification of some suggestion, teaching, or suggestion in the prior art, arising from what the prior art would have taught a person of ordinary skill in the field of the invention.") In this case, the Examiner has failed.

The Patent Office rules for evaluating whether a proper case of obviousness has been made out are set forth in MPEP § 2143. As stated in the Applicant's Appeal Brief, it is respectfully submitted that the Examiner has failed to establish a *prima facie* case of obviousness as required by MPEP § 2143. In particular, in order to establish a *prima facie* case of obviousness pursuant to MPEP § 2143, three criteria must be met. "First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or reference when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claim combination and the reasonable expectation of success must both be found in the prior art, not in the Applicant's disclosure."

In particular, none of the references disclose all of the claimed limitations as required by MPEP § 2143. In particular, the claims in essence recite, in combination, a system for determining the color value of a selected object in a video frame and associating an event with selected objects in other frames if it matches the color value in the first frame. The Rangan et al. patent does not disclose or suggest such elements. In particular, the Rangan et al. patent discloses a relatively computation intensive method which actually tracks a wireframe through succeeding frames in a series of video frames. The object encapsulated by the wireframe is hyperlinked. See Col. 2, lines 53-54 of the Rangan et al. patent which indicates that the system determines "positions for the entity in succeeding frames of the video presentation". Also, the title of the Rangan et al. patent identifies hyperlinking; "Enhanced Interactive Video with Object Tracking and *Hyperlinking*". As is known in the art, hyperlinking is location based and not based at all on color values. In particular, hyperlinks are located in specific locations in video

frames. As such, after the initial tracking and hyperlinking is complete, the system merely monitors the pointing device to determine whether the action by the pointing device coincides with a hyperlinked location on the video frame. Thus, the Rangan et al. patent clearly does not initiate an event based upon determining the mathematical color property of a selected location in a succeeding video frame and initiating an event when the mathematical color property of the selected location in the succeeding video frame has been previously associated with an event.

The invention, on the other hand, obviates the need to track wireframes from frame to frame. Rather, the system in accordance with the present invention simply associate a mathematical color property of a selected location in a video frame with an event. The system does not track the location of object from frame to frame. Rather, the system in accordance with the present invention, simply associates an event with a mathematical color property. Thus, when an action by a pointing device is detected in a succeeding video frame, the mathematical color value of the selected location in the succeeding video frame is determined and compared with mathematical color value that had been associated with events. If the mathematical color value of the selected location in the succeeding video frame matches a mathematical color value previously associated with an event, the event is initiated. As such, the Rangan et al patent does not anticipate or suggest the invention. If anything, it is respectfully submitted that the Rangan et al patent teaches away from the invention as it teaches the use of hyperlinks, which are based upon location and not color value. The Issadore-Barreca patent likewise does not disclose a system that initiates an event based upon a color value. As set forth above, the failure to demonstrate that all of the claim elements are shown by the references is in contravention of MPEP § 2143. As such, it is respectfully submitted that the Examiner has failed to set forth a *prima facie* case of obviousness for this reason alone. For all of the above reasons, the Board is respectfully requested to reverse the rejection of the claims.

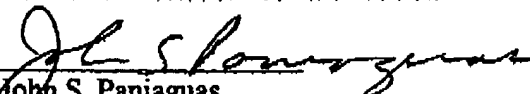
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Respectfully submitted,

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